Engle Broadcasting
P.O. Box 288
Cedar Brook, NJ 08018

September 3, 2008

Marlene Dortsch,
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Ms Dortsch:

Please accept these Reply Comments Proceeding 07-294.
Reply comments were due on August 29, 2008. Due to the Labor Day holiday, our comments are only 2 business days late.

I attempted to file these comments on Friday, August 29, however, I had a problem with my internet connection. The comments were not received properly so I am resubmitting.

Thank you.

Respectfully Submitted,

Paul V Engle
Engle Broadcasting

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Promoting Diversification Of Ownership in Broadcast Services	)	FCC Docket No. 07-294
	)	
2006 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	FCC Docket No. 06-121
	)	
2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	FCC Docket No. 02-277
	)	
Cross-Ownership of Broadcast Stations and Newspapers	)	MM Docket No. 01-235
	)	
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets	)	MM Docket No. 01-317
	)	
Definition of Radio Markets	)	MM Docket No. 00-244
	)	
Ways to Further Section 257 Mandate and to Build on Earlier Studies	)	MM Docket No. 04-228

Reply Comments of Engle Broadcasting

Engle Broadcasting hereby submits is Reply Comments in the Commission's NPR seeking comments on its authority to adopt rules requiring must-carry of Class A television stations to promote programming diversity and localism.

Engle Broadcasting is licensee and operator of WPSJ-LP, a Class A station licensed to Hammonton, New Jersey. Engle Broadcasting is certified as a Veteran-Owned Small Business by the Veterans' Administration.

One of the most important points which is not given enough consideration is that the Congress of the United State, in passage of the Cable Television Consumer Protection and Competition Act of 1992 directed the FCC to 'encourage cable operators to carry LPTV stations that serve their communities with local programming."[1] No commenter has mentioned this directive in their comments.

The creation of the Class A service is based upon a mandatory number of hours of local programming. Most stations do more than the minimum required. Class A stations are required to operate under the same standards as every other television station. There is one thing that is different: corporate economic discrimination.

As late as February, 2008, the Commission has urged the cable industry and other broadcasters to work with Class A stations to ensure their continued operation through and after the digital transmission. Unfortunately the culture of economic corporate discrimination continues against Class A stations.

Over many years of petitioning the many local cable operators in my market to carry my station on their cable system, I have what I experienced what I think was and is a culture of economic discrimination. Back in the 1980's, the cable managers in my market would tell me 'We like your programming, but we can't put you on until there is more channel capacity." Other cable operators have told me "Don't make waves and we will put you on.' My station has been on the air for 22 years and to this date, no cable operator has carried it. Nothing has changed except now there is only one cable operator in the market and they will not even acknowledge a simple request for a meeting.

The expected result of the Congressional directive to the Commission was to allow LPTV, now Class A stations which serve their communities with local programming, the same economic access to viewers that every other station receives. Television viewers across the country are being told that there will be no more analog TV after February 17, 2009. By hearing these messages several times a day, the general belief among the public is that their Class A stations are going off the air in February. If the Commission doesn't act in this rulemaking, to allow Class A stations access to the viewers in their market via must carry, then February 17, 2009 will also be the date that a television service died.

Must Carry for Class A stations is a way for the Commission to fulfill the Congressional directive and to right the wrong that has been perpetuated on Class A stations.

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[1] Cable Television Consumer Protection and Competition Act of 1992, Sec. 2(a)(21)

I urge the Commission to include Class A owners, who have experienced corporate economic discrimination from multi-channel operators, in any programs designed to promote ownership diversity in broadcasting.

Engle Broadcasting reiterates its strong support of the of the Community Broadcasters Association's comments in this proceeding.

Many companies involved in the Class A service filed comments in support of must carry for Class A stations.

Each filer demonstrated the importance of their stations to the community and described the inherent discrimination they face each day from cable operators who refuse to carry their stations. Such refusal negatively impacts the operation of the station and prevents cable subscribers from viewing valuable local-oriented and diverse programming.

Compared to other proceedings affecting the cable industry, there have been relatively few comments in this matter from cable. Just two of the top 25 cable operators in the country filed comments.[2] This is an indication that cable has an underlying belief that must carry for Class A stations will not have a significant impact on their operations.

In its comments, ZGS Communications Inc. proves that the impact on individual cable systems is 'relatively small'[3] averaging "about 1 channel per market."[4] The average cable subscriber gets 104 channels.[5] This is less than 1 percent! Hardly a significant impact.

All-digital multi-channel capacity for is far greater and would have even less impact. Commenter Time Warner advertises its 200 "crystal clear channels." [6] Cablevision claims 280 "all-digital channels."[7] Verizon, a relatively new entrant as a multi-channel operator, boasts over 200 channels in its FiOS system. Addition of Class A would represent less than 1% of these commentators's channel capacity. Significantly less than the 15% of channel capacity that cable operators are required to set aside for leased access.[8]

NCTA complains that there are 17 Class A stations in one market and implied that all cable systems would have to carry upwards of 17 Class A stations.[9] This is an exaggeration designed to mislead the Commission. This data was taken from the comments of ZGS.

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[2] Only Time Warner, Cablevision and the industry group NCTA submitted comments.
[3] See ZGS Communications at p. 18-19
[4] See ZGS Communications at p. 23
[5] Neilson Media
[6] http://www.timewarnercable.com/
[7] http://www.cablevision.com/
[8] 47USC 532(b)(1)(c) An operator of any cable system with more than 100 activated channels shall designate 15 percent of all such channels (for leased access).
[9] See NCTA Reply Comments at p. 5-6

When taken in context, ZGS points out that there is only 1 market with 17 Class A stations and that market is "about 100 miles long with numerous hills and valleys."[10]

Some cable commentators complained that there wasn't proper notice of the Commission's request for comments in this proceeding. This is a deficiency of their legal department, not the fault of the notification process of the Commission.

The NCTA's comments are an indication of cable's probable response to new entrants to the table of allotments. The refusal of cable operators to carry existing Class A stations, with proven value both in local programming and diversity of ownership, shows cable's persistence in maintaining a bottleneck of control over content. Were cable to share the Commission's goal of promoting diversity of voices and ownership, all Class A and LPTV stations would now be carried and there would be no need for this proceeding.

To date there has been little 'encouragement" to multi-channel operators to carry LPTV/Class A stations. This directive gives the Commission authority to expand must carry for Class A stations. In the 1992 Cable Act, Congress mandated the Commission encourage cable operators to carry stations of this new service. Clearly the intent was to gently nudge the cable industry, clearly this didn't work. Engle Broadcasting believes it is within the Commission's authority and responsibility to turn the nudge into a law.

For these reasons, Engle Broadcasting respectfully requests the Commission expeditiously enact rules to provide mandatory cable carriage for Class A stations.

Respectfully submitted,

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Engle Broadcasting
P.O. Box 288
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August 29, 2008

[10] See ZGS at p. 20